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9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 SCOTT SEO,

16 Defendant.

No. CR 18-625-JAK-1

GOVERNMENT'S SENTENCING POSITION
FOR DEFENDANT SCOTT SEO; EXHIBIT

Hearing Date: April 4, 2019

Hearing Time: 8:30 a.m.

Location: Courtroom of the
Hon. John A.
Kronstadt

19
20 Plaintiff United States of America, by and through its counsel
21 of record, the United States Attorney for the Central District of
22 California and Assistant United States Attorney Veronica Dragalin,
23 hereby files its Sentencing Position for Defendant SCOTT SEO.

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1 This Sentencing Position is based upon the attached memorandum
2 of points and authorities and attached exhibit, the files and records
3 in this case, and such further evidence and argument as the Court may
4 permit.

5 Dated: March 21, 2019

Respectfully submitted,

6 NICOLA T. HANNA
7 United States Attorney

8 LAWRENCE S. MIDDLETON
9 Assistant United States Attorney
 Chief, Criminal Division

10 /s/ Veronica Dragalin
11 VERONICA DRAGALIN
 Assistant United States Attorney

12 Attorneys for Plaintiff
13 UNITED STATES OF AMERICA

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendant Scott Seo ("defendant" or "Seo"), a former public official with the California Department of Alcoholic Beverage Control ("ABC"), concocted a scheme to enrich himself at the expense of small business owners in Los Angeles, who paid "consulting fees" to resolve issues created by Seo in the first place, and at the expense of the citizens of California, who were deprived of the honest services of their public officials. Over the course of more than four years, Seo paid bribes and kickbacks to his co-conspirator, defendant Wilbur M. Salao ("Salao"), a public official with the ABC, to generate fees and expand his business as a consultant. Seo paid Salao at least \$28,400 in bribes, and was enriched by at least \$60,000 through the scheme. Seo and Salao provided a window into their corrupt intent, motivation, and state of mind by constantly discussing their fraudulent scheme in great detail in text messages. There is no doubt defendant was motivated by greed and had a complete lack of respect for the law and the public functions of the ABC.

For their actions, defendant and Salao were charged in an indictment with conspiracy to commit bribery, honest services fraud, and extortion, in violation of 18 U.S.C. §§ 371, 666, 1341, 1343, 1346, and 1951, and substantive counts of honest services fraud and bribery. On November 29, 2018, defendant pled guilty to count 13 of the indictment, charging him with bribery, in violation of 18 U.S.C. § 666, pursuant to a plea agreement. (CR 36.)

On February 25, 2019, the United States Probation Office ("USPO") disclosed the Presentence Investigation Report ("PSR"), in which it calculated a total offense level of 21 and a criminal

1 history category of I. (CR 43.) The USPO recommended a sentence of
2 18 months of imprisonment, well below the Guideline range of 37-46
3 months.

4 Based on the USPO's Guidelines calculations and the government's
5 under seal filing, the government recommends the sentence proposed in
6 the concurrently filed under seal filing. The government submits
7 that such a sentence would be sufficient, but not greater than
8 necessary, to meet the sentencing goals set forth in 18 U.S.C.
9 § 3553(a).

10 **II. STATEMENT OF FACTS**

11 Pursuant to the factual basis in defendant's plea agreement and
12 the PSR, defendant admitted the following facts when he pleaded
13 guilty. Additional facts not included in the plea agreement and PSR
14 are based on text message communications between defendant and his
15 co-conspirator, Wilbur Salao.¹

16 Defendant was employed as a consultant, offering his services to
17 businesses located in the Koreatown area of Los Angeles on matters
18 concerning ABC licenses, ABC condition modifications, and ABC
19 enforcement and disciplinary resolutions. (PSR ¶ 16.)

20 Between December 2011 and May 2016, defendant paid bribes to
21 Salao, which defendant and Salao concealed from the ABC. In exchange
22 for receiving bribes and kickbacks from defendant, Salao performed at
23 least the following official acts in his capacity as an ABC District
24 Administrator: (i) directing ABC enforcement operations and
25 disciplinary actions against targeted businesses defendant selected;
26 (ii) altering official ABC documents at the direction of defendant,
27

28 ¹ Upon request, the government can make copies of text messages
quoted in this sentencing position available for the Court.

1 including modifying diagrams and operating conditions; (iii) sharing
2 non-public information with defendant to benefit defendant and his
3 clients; (iv) expediting the licensing process for defendant's
4 clients at defendant's direction; and (v) delaying the licensing
5 process for defendant's competitors at defendant's direction. (PSR
6 ¶¶ 17-18.)

7 These bribes and official acts allowed defendant to target
8 businesses for enforcement actions, convince business owners to pay
9 defendant a fee to avoid harsh disciplinary actions imposed by Salao,
10 sign new clients, generate fees from existing clients, harm
11 defendant's competitors and rivals, and force businesses to sell
12 their establishments to defendant and his associates. In December
13 2011, defendant accepted \$60,000 in cash from a Cooperating Witness,
14 to resolve a business's ABC license issue, including by paying a
15 bribe or kickback to Salao. In return, Salao issued a temporary ABC
16 license to the business. (PSR ¶ 19.)

17 As outlined in the indictment, defendant's often blunt
18 communications with his co-conspirator made obvious that they were
19 both motivated by greed. For example, on December 19, 2014, Seo
20 stated he "[g]ot 3k last night" from a business owner through their
21 scheme. Salao responded: "Damn! 3K just like that? **We are gonna rape**
22 **Ktown!**" Later that day, Seo wrote: "When we meet I will have some
23 plans ready like korean news media and how we can use them to **pump**
24 **fear into Ktown.**" Salao responded: "**I'm open to whatever lines our**
25 **wallets!**"

26 Throughout their corrupt relationship, Seo often enlisted
27 Salao's help in his official capacity to retaliate against certain
28 business owners, including Seo's existing clients. For example, on

1 March 27, 2014, Seo texted: "I will give you list of clients that
2 just played me for free info and will file themselves or with cheap
3 consultant. I need your help and make sure they hit many road
4 bumps." Salao responded: "Fuck em. I'll make it impossible for them
5 without AP² help." Seo often directed Salao's ABC enforcement
6 operations to ensure his own clients were hit in order to enlist
7 Seo's "consulting services." For example, on April 11, 2016, Seo
8 texted: "Hit [existing client] no matter what. Either way APC client
9 so we may benefit. Double dipping sort of. LOL. Get some sort of
10 violation then he will APC. If not scare the living crap out of
11 girls." On April 14, 2016, Salao texted in reference to the same
12 client: "APC enemy number 1. And also a client Lol." On April 15,
13 2016, at Seo's direction, Salao and the ABC raided this same client's
14 business.

15 On August 11, 2015, Seo and Salao discussed targeting Seo's
16 clients for enforcement actions by the ABC. Salao wrote: "If they
17 don't sign **we at least extort them for money**. Correction. Extort is
18 such a harsh word. Help them with their lack of compliance sounds
19 better." Seo responded: "I totally agree. When we meet Monday we
20 need to seriously coordinate this APC. Known on sale restaurants
21 should be targeted too. We can charge \$1000 for 309 and see if they
22 will bite."

23 On February 5, 2015, Seo and Salao also discussed targeting
24 enforcement actions at Seo's direction. Salao wrote: "Then we will
25 be out during the week! To places you direct me to of course." Seo
26

27 ² "Asian Persuasion Control," "Asian Persuasion Coalition,"
28 "APC" and "AP" were the informal names Seo and Salao used to refer to
themselves and their schemes involving Salao using his official
position at ABC to benefit Seo in exchange for money.

1 responded: "Got it. I will reorganize hit list for our meeting
2 tomorrow." Salao then wrote: "Beauty of his whole thing is that even
3 if some of the cases can't be AP'd or POIC'd, I aim for a high
4 penalty and you negotiate down to a lesser penalty. It's a win win as
5 you can make miracles happen that other consultants can't at the
6 309."

7 Seo also enlisted Salao's official position to help him gain an
8 advantage over his competitors. For example, on March 18, 2016, Seo
9 wrote: "The way to kill off [two competitors] is on your end.
10 Scrutinize the shit out of their cases and delay is the key. And 309
11 find a way not to grant POIC. Give maximum penalty and make note of
12 their clients and APC enforcement for second pop and raise the
13 penalty. Then I send APC letter to them. LOL. We may not able to
14 stop people from going to them the first time but we can steal them
15 for the second violation." Salao responded: "Ever moving parts to
16 ktown dominance."

17 During the course of their relationship, Seo and Salao discussed
18 using their scheme to convince other business owners to sell their
19 "b-girl"³ business to Seo and his associates. For example, on April
20 12, 2016, Seo and Salao texted about owning a "b-girl" business. Seo
21 wrote: "Shit when I was contributing to 457 I never expected someday
22 it would be used to fund bgirl joint. Destiny." Salao responded:
23 "This isn't quite what we talked about originally doing but it
24

25 ³ Some establishments in Koreatown used what they referred to as
26 "b-girls," "dowoomi," and "doumi" -- paid females who encouraged
27 drinking by patrons or other illegal conduct. These women often came
28 from Korea on temporary visas. The women would come with a certain
amount of "debt," which the establishment would assume when hiring
the woman. The woman would pay off her debt either by working in the
establishment or by acting as an "on-call" girl for a particular
wealthy client.

works!!!!" Seo then wrote: "The evolution of APC... There will be movie about APC someday." Later in the conversation, in the context of discussing another potential location for their "b-girl" business, Salao wrote: "Fuck yeah! **Two great minds conspiring to fuck the system and a part of the city!**" Seo responded: "I always wondered if other ABC fool are doing the same shit." Salao then wrote: "**Nobody has the intellect or BALLS to do this. Emphasis on the latter. Plus nobody has ktown and, more importantly, Scott Seo.**" Seo then wrote: "Kkkkk [indicating laughter]." On May 18, 2016, Seo confirmed he was a part owner of the business Seo and Salao had been targeting with enforcement actions in an effort to get the owners to sell the business to Seo and his associates. Seo wrote: "You're looking at 25% owner of [the business]. It's official!!!"

Lastly, defendant's communications with his co-conspirator illustrated that they both recognized the power of Salao's official position. For example, on February 6, 2015, Salao and Seo joked about Salao's new power as the district administrator of enforcement for the ABC. Salao wrote: "I can't belive [sic] they put me in charge of enforcement." Seo responded: "That's like hiring drug addict as pharmacist."

Between January 2014 and May 2016, during at least ten separate in-person meetings with Salao, Seo paid Salao bribes in the form of cash and checks, totaling \$28,400. In addition, Seo was enriched by at least \$60,000 as a result of this scheme. (PSR ¶ 20.)

III. THE PSR AND GUIDELINES CALCULATION

On February 25, 2019, the USPO disclosed the PSR in which it concluded that defendant had a total offense level of 21. (PSR ¶ 44.) The government has no objection to the calculation of the

1 total offense level. As the USPO pointed out, the parties agreed to
2 the base offense level, the +2 enhancement for multiple bribes, and
3 the +6 enhancement for the value of the bribes.

4 The USPO also calculated a +4 enhancement based on Salao's
5 "high-level" official position. (PSR ¶¶ 34-36.) In addition to the
6 rationale outlined in the PSR based on the Sentencing Guidelines and
7 Application Notes, courts in this Circuit have applied this
8 enhancement in circumstances similar to this case. See, e.g., United
9 States v. Jacobs, 506 F. App'x 558, 560 (9th Cir. 2013) (applying
10 enhancement where "[a]s a supervisory officer, Jacobs had the
11 authority to review important decisions of officers, he had access to
12 sensitive information, and he was able to control the actions of
13 subordinates"); United States v. Naone, No. CR. 06-00209-01DAE, 2009
14 WL 4217136, at *9 (D. Haw. Nov. 25, 2009) (applying enhancement to
15 liquor control investigator). In addition, the enhancement is
16 appropriate even though Seo himself was not the high-level official.
17 See United States v. Santos, 501 F. App'x 630, 634 (9th Cir. 2012)
18 ("As opposed to the base-level for all public officials, U.S.S.G.
19 § 2C1.1(b)(3) applies a 4-level increase to all defendants involved
20 in a crime of high-level corruption, whether a public official or
21 otherwise.") (emphasis in original).

22 With respect to criminal history, the USPO concluded that
23 defendant had 0 criminal history points, resulting in a Criminal
24 History Category of I. (PSR ¶¶ 49-50.) The government concurs with
25 this calculation.

26 In addition, the USPO determined that \$88,400 in restitution to
27 the ABC shall be ordered in this case pursuant to 18 U.S.C. § 3663A.

1 (PSR ¶ 105.) The check in the amount of \$88,400 to ABC shall be made
2 payable to "The California Department of Alcoholic Beverage Control."

3 **IV. GOVERNMENT'S SENTENCING RECOMMENDATION**

4 The government respectfully requests that the Court adopt the
5 factual findings and criminal history calculation of the PSR in this
6 matter, and the additional information in this sentencing position
7 and the government's under seal filing.

8 In accordance with the § 3553(a) factors and the foregoing, the
9 government recommends that the Court impose the sentence outlined in
10 the concurrently filed under seal filing.

11 **A. Nature and Circumstances of the Offense**

12 Defendant and his co-conspirator participated in an ongoing
13 scheme for over four years. Defendant demonstrated a lapse in
14 judgment not on one, two, or three occasions. Instead, as his text
15 messages with his co-conspirator make clear, defendant's entire
16 business was premised on grossly abusing Salao's official position.
17 Defendant and Salao discussed their scheme on almost a daily basis,
18 and executed their scheme repeatedly for years. The scheme ended
19 only because law enforcement confronted defendants. In furtherance
20 of the scheme, defendant undermined the duties and responsibilities
21 of a public official, interfered with a position of trust, deprived
22 the citizens of California of their right to the honest services of
23 their public officials, and ultimately harmed the ABC.

24 As detailed in the attached letter from the ABC (Exhibit 1),
25 defendants' scheme resulted in both financial and reputational harm
26 to the ABC. For the reasons set forth in the letter from the ABC,
27 and the facts stated herein, the government requests that the Court
28

1 impose the following additional term and condition during the period
2 of supervised release:

- 3 • The defendant shall not appear before the California
4 Department of Alcoholic Beverage Control ("ABC") in any
5 capacity and shall not represent, advise, or consult any
6 business or person in connection with any matters before
7 the ABC, including licensing and enforcement.

8 The evidence in this case makes clear that defendant had no
9 respect for the law, which is particularly troubling given his
10 education and degree in criminal justice, as well as his former
11 position as a law enforcement agent authorized to enforce California
12 laws throughout the State. The extensive nature of the scheme--both
13 in scope and in time--warrant the recommended prison sentence.

14 **B. History and Characteristics of Defendant**

15 While defendant has no criminal history and appears to have led
16 a law-abiding life aside from his involvement in the charged crimes,
17 defendant has had a privileged upbringing, including a stable home,
18 loving parents, a higher-level education, and a career. Instead of
19 applying his education and skills to be a reputable member of
20 society, defendant spent considerable time and effort concocting
21 numerous ways of extracting fees from businesses by breaking the law.

22 Unfortunately, defendant has a family who must bear the
23 consequences of his actions and who have and will undoubtedly
24 continue to suffer as a result. Because defendant is a caretaker and
25 provider for his parents, wife, and child, the government recommends
26 the low-end of the Sentencing Guideline range.

C. Need to Reflect the Seriousness of the Offense, Promote Respect for the Law, and Afford Adequate Deterrence to Criminal Conduct

The public suffers in this case because of the harmful consequences of government corruption. Defendant, a former ABC official, abused his relationship with another ABC public official, interfered with the proper functions of the ABC, and together with his co-conspirator made a complete mockery out of the ABC's licensing and enforcement operations. Through defendants' scheme, certain businesses obtained license modifications or alterations because Seo paid Salao bribes, while other legitimate businesses followed established rules and processes. Through defendants' schemes, the ABC targeted enforcement actions against certain businesses to generate fees for Seo, thereby diverting resources away from legitimate enforcement operations. Furthermore, as a former ABC official, defendant understood the danger involved in manipulating and jeopardizing legitimate law enforcement operations, such as ABC and LAPD enforcement actions. Defendant disregarded the mission of his fellow law enforcement officers and jeopardized their safety for his own gain. Moreover, defendant's actions lessen the trust that the public has in its government. The government cannot efficiently function with corrupt employees using their positions for their personal profit.

More importantly, defendant's sentence must serve to deter him and all public officers who believe they can profit from an official position of trust. As the evidence in this case demonstrates, an experienced former ABC officer like defendant can use his knowledge of the system to run a bribery and fraud scheme for years and go undetected. Such corrupt officers and former officers must be on

1 notice that this conduct is not acceptable and will result in severe
2 consequences.

3 For these reasons, the recommended prison sentence is necessary
4 to protect the public and deter defendant specifically and others
5 like him more generally.

6 **V. CONCLUSION**

7 The government respectfully requests that the Court impose the
8 sentence outlined in the concurrently filed under seal filing.